

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ALAN KENT PRICHARD, # 262205,

Petitioner,

v.

Case Number: 19-cv-12711

THOMAS WINN,

Respondent.

**ORDER DENYING IN PART AND GRANTING IN PART
PETITIONER'S MOTION TO STRIKE AND FOR ENLARGEMENT
OF TIME (ECF NO. 11), LIFTING STAY, AND REOPENING CASE**

On November 16, 2020, the court granted Petitioner Alan Kent Prichard's motion to stay this habeas corpus proceeding and administratively closed the case. (ECF No. 9.) Petitioner now moves to strike his motion to stay and for an enlargement of time to file a reply. (ECF No. 11.)

The court granted a stay to allow Petitioner to exhaust additional claims in state court. Petitioner states that he now wants to abandon his unexhausted claims and proceed only with his exhausted claims. The proper way to proceed in that regard is not as Petitioner styles it, seeking to "strike" his own pleading. The court need not strike or remove anything in order for Petitioner to proceed with his exhausted claims as he wishes.¹

¹ Federal Rule of Civil Procedure 12(f) authorizes a district court to strike from a pleading any "insufficient defense or any redundant, immaterial, impertinent or scandalous matter." Motions to strike under Fed. R. Civ. P. 12(f) are viewed with disfavor and infrequently granted. *Brown & Williamson Tobacco Corp. v. U.S.*, 201 F.2d 819, 822 (6th Cir. 1953) ("[T]he action of striking a pleading should be sparingly used by the courts. It is a drastic remedy to be resorted to only when required for the purposes of justice.") (internal citations omitted).

The court denies the motion to strike and, instead, simply lifts the stay and reopens the case to allow Petitioner to proceed with his exhausted claims. The court will grant Petitioner's request for an enlargement of time to reply to Respondent's answer.

Accordingly, IT IS ORDERED that Petitioner's "Motion to Strike Motion to Stay and Leave to Grant Time to File Reply to Respondent's Answer" (ECF No. 11) is GRANTED IN PART AND DENIED IN PART. The court DENIES Petitioner's request to strike his motion to stay. The court GRANTS Petitioner an enlargement of time to file a reply brief. Petitioner shall have until March 22, 2021 to file a reply.

IT IS FURTHER ORDERED that the stay is LIFTED and the Clerk of Court shall REOPEN this case.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 26, 2021

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 26, 2021, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522